

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF PUBLIC HEARING ON  
Rules I through IV pertaining to the     ) PROPOSED ADOPTION  
electronic service of levies and writs     )

TO: All Concerned Persons

1. On October 14, 2014, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 3, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS The following definitions apply to terms found in this subchapter:

(1) "Debt code addendum" means a section of the signed service agreement in which the process server instructs the department on the technical aspects of issuing payment for funds seized through the levy process.

(2) "Electronic service" means the service of a writ, levy, or document by electronic submission. Electronic services are also known as e-services. Electronic service may allow for noncommercial services online.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule I will define terms not found in statute that will be used in the new rules related to the electronic service of levies and writs.

NEW RULE II PROCESS SERVERS SUBMISSION OF LEVIES AND WRITS TO THE DEPARTMENT BY ELECTRONIC MEANS (1) The department and process server, as defined in 37-60-101, MCA, must have a signed service

agreement and debt code addendum in place prior to the department's acceptance of electronic service of levies and writs.

(2) The signed service agreement serves as the department's written consent to be served electronically in accordance with 25-13-402, MCA, for service of levies and writs upon a state income tax refund that are due to the judgment debtor from the department. Acceptance of electronic service documents is limited solely to the purposes described under 25-13-402, MCA.

(3) When a signed service agreement is in place, the process server shall serve all levies and writs for debt collection on the department electronically. The department will not accept levies or writs in paper format from a process server that has entered into an agreement to submit them by electronic means.

(4) The process server shall provide a valid social security or other federal identification number for each debtor, and a valid district court cause number for each writ.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule II to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule II will set forth the required actions a process server must undertake in order to electronically submit levies and writs upon the department for collection assistance. Electronic service of levies and writs on the department will expedite services and reduce administrative and data entry costs associated with processing levies and writs otherwise served on the department in paper format.

NEW RULE III DEPARTMENT'S TREATMENT OF WRITS RECEIVED FROM PROCESS SERVERS (1) Upon receipt of a writ from a process server, the department shall seize income tax refunds due the debtor for offset of the debt.

(2) The department shall not calculate interest and/or penalties on any judgment liability submitted for offset.

(3) Upon the department receiving notification that a debtor has filed for bankruptcy, the department shall inactivate the debtor from offset activity.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule III to properly implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule III will ensure uniformity in how the department will accept and treat writs received from process servers.

NEW RULE IV DEPARTMENT'S SUBMISSION OF LEVIES AND WRITS TO FINANCIAL INSTITUTIONS AND EMPLOYERS BY ELECTRONIC MEANS

(1) The department shall have a Warrant for Dstraint filed with a Montana court prior to submitting a judgment liability.

(2) The department shall adhere to the form and content of the writ in accordance with 25-13-301, MCA, and provide a valid district court cause number when submitting electronic levies, writs, or garnishments to financial institutions and employers.

AUTH: 15-1-201, 15-1-706, MCA

IMP: 15-1-706, 25-13-301, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule IV to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule IV will ensure uniformity in how the department will use electronic means to submit levies, writs, or garnishments to financial institutions and employers. Service by electronic means will expedite service of bank and payroll levies and reduce certified mailing costs.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [lalogan@mt.gov](mailto:lalogan@mt.gov) and must be received no later than October 21, 2014.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov](http://revenue.mt.gov). Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the

official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 66, L. 2013, Representative Brian Hoven, was notified by regular mail on April 11, 2014, and subsequently notified by regular mail on August 15, 2014.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State September 8, 2014.